

March 10, 2008

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Transportation file no. **V-2570**
Proposed Ordinance no. **2008-0007**
Parcel no. **375060-1593 & 375060-1590**

DENNIS & MARA HEIMAN
Road Vacation Petition

Location: Portion of 50th Avenue South

Petitioners: **Dennis & Mara Heiman**
6430 South 287th Street
Kent, Washington 98032
Telephone: (253) 951-2036

King County: Department of Transportation (DOT), Road Services Division
represented by **Nicole Keller**
201 S. Jackson Street
Seattle, Washington 98104-3856
Telephone: (206) 296-3731
Facsimile: (206) 296-0567

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve road vacation
Department's Final:	Approve road vacation
Examiner's:	Approve road vacation

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the King County Hearing Examiner for Item No. V-2570 was received by the Examiner on January 24, 2008.

PUBLIC HEARING:

After reviewing the Department's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. V-2570 was opened by the Examiner on February 20, 2008, in the Hearing Examiner's Conference Room, 400 Yesler Way, Seattle, WA 9810. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. The hearing was continued administratively for receipt of an affidavit of the required Notice of Hearing and recording of the Utility Easement, copies of which were received March 4, 2008 and March 10, 2008 respectively. A verbatim recording of the hearing is available in the office of the Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location:	50th Avenue South (also known as Colorado Avenue), in the City of Pacific's Potential Annexation area
Right of way classification:	C
Area:	15,600
Compensation:	\$5902

2. Notice of hearing on the Department's report was given as required by law, and a hearing on the report was conducted by the Examiner on behalf of the Metropolitan King County Council.
3. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department's report to the Examiner for the February 20, 2008, public hearing and the statement of facts contained in Proposed Ordinance No. 2008-0007. The Department's report will be attached to those copies of this report and recommendation that are submitted to the County Council.
4. Maps showing the vicinity of the proposed vacation and the specific area to be vacated appear in the hearing record as exhibit nos. 6, 7 and 8.
5. The subject right-of-way segment is not currently opened, constructed or maintained for public use, and is not known to be used informally for access to any property.
6. Vacation of the right-of-way would have no adverse effect on the provision of access and fire and emergency services to the abutting subject property and surrounding area.
7. The right-of-way is not necessary for the present or future public road system for travel or utilities purposes.
8. No easements are necessary to be retained for the construction, repair and maintenance of public utilities and services.

9. The compensation required by law to be paid as a condition precedent to vacation of this road has been deposited with King County.

CONCLUSION:

1. The right-of-way segment subject to this petition is useless as part of the King County road system, and the public will be benefited by its vacation.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2008-0007 to vacate the subject road right-of-way.

RECOMMENDED March 10, 2008.

Stafford L. Smith
King County Hearing Examiner *pro tem*

**NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED**

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before* **March 24, 2008**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before* **March 31, 2008**.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE FEBRUARY 20, 2008, PUBLIC HEARING ON DEPARTMENT OF
TRANSPORTATION, ROAD SERVICES DIVISION FILE NO. V-2570.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Nicole Keller, representing the Department and Mara Heiman, the Petitioner.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Report to the Hearing Examiner for the February 20, 2008 hearing, with 16 attachments.
- Exhibit No. 2 Petition transmittal letter, dated July 25, 2006 to KC Department of Transportation (KCDOT), from Clerk of the Council.
- Exhibit No. 3 Petition for vacation of a County road including legal descriptions of petitioners' properties.
- Exhibit No. 4 Copy of filing fee, check no. 6441 in the amount of \$100.
- Exhibit No. 5 Receipt no. 00798 for filing fee.
- Exhibit No. 6 Vicinity map.
- Exhibit No. 7 KC Plat Map of Jovita Addition.
- Exhibit No. 8 Map depicting vacation area.
- Exhibit No. 9 Final Agency Notice, sent November 16, 2006.
- Exhibit No. 10 Unrecorded Utility Easement to Lakehaven Utility District.
- Exhibit No. 11 Letter of explanation.
- Exhibit No. 12 Compensation Worksheet.
- Exhibit No. 13 Copy of compensation payment, check no. 480997920 in the amount of \$5902.
- Exhibit No. 14 Receipt no. 146681 for compensation payment.
- Exhibit No. 15 Recommendation letter from KCDOT to KC Council
- Exhibit No. 16 Proposed Ordinance 2008-0007 transmittal letter.
- Exhibit No. 17 Proposed Ordinance 2008-0007.
- Exhibit No. 18 Fiscal Note.
- Exhibit No. 19 Affidavit of Posting, dated January 23, 2008.
- Exhibit No. 20 Affidavit of Publication, dated March 4, 2008.
- Exhibit No. 21 Email from Mara Heiman to Nicole Keller explaining reasons for application, dated January 8, 2008.
- Exhibit No. 22 Email from Harry Arndt to KCDOT requesting establishment of utility easement on the property, dated February 18, 2008.

SLS:vsm

V-2570 RPT